

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

CR 12-3109 JB

Plaintiff,

vs.

ERNESTO RODRIGUEZ

Defendant.

DEFENDANT’S PROPOSED VOIR DIRE

COMES NOW THE DEFENDANT, Ernesto Rodriguez, by and through his counsel of record Assistant Federal Public Defender Brian A. Pori, and respectfully requests that this Honorable Court *voir dire* prospective jurors by asking the following questions:

I. Spanish Speaking Witnesses

The crime in this case is alleged to have taken place among Spanish Speaking individuals, some of whom are United States Citizens.

1. Do any of you fluently speak Spanish?
2. Do any of you have such strong feelings about people who speak Spanish that you will not be able to be fair and impartial?
3. If you learned that Mr. Rodriguez is a United States citizen

who has spent the last 17 years living in the United States and yet he still primarily speaks Spanish will that fact make it more difficult for you to fairly judge Mr. Rodriguez?

4. Have any of you ever lived in a country where English was not the official language?
5. If so, did you learn the language of the country where you lived?

II. Prior Experience as a Victim of a Crime

1. Is there anyone on the panel who has ever been the victim of a crime?
2. Is there anything about that experience which you believe would make it difficult for you to be a fair juror in this case?
3. Is there anyone on the panel who has a close family member who has been the victim of a crime?
4. Is there anything about that experience which you believe would make it difficult for you to be a fair juror in this case?

III. Presumption of Innocence

1. Is there anyone on the panel who believes that, as you look at Mr. Rodriguez sitting there at the defendant's table in a federal

courtroom, that Mr. Rodriguez must have done something wrong or else none of us would be here now?

2. Is there anyone who believes it is not be possible for Mr. Rodriguez to be innocent of the charges contained in the Grand Jury Indictment because law enforcement officials would not bring charges against someone who is not guilty?
3. Is there anyone who cannot begin this process by presuming that Mr. Rodriguez is not guilty of the charges contained in the Indictment and that he can only be convicted if the Government proves his guilt to a unanimous jury with proof beyond a reasonable doubt?

IV. Privilege Against Being Forced to Testify

1. The law not only presumes that Mr. Rodriguez is innocent, it also protects him from being forced to testify in his own defense and allows him to decide not to testify in this trial. If Mr. Rodriguez decides not to testify, I will instruct you that you are not to discuss the fact that he relied on this privilege to remain silent in your deliberations and you are not to draw any adverse inference from that fact. Is there anyone who disagrees

with this instruction or who will not be able to follow it?

2. Is there anyone who believes that if Mr. Rodriguez is innocent he should testify in his own defense?
3. Can any of you think of any reason why someone who is innocent of a charged crime would still not want to testify at a trial?
4. Is there anyone who will assume that, if Mr. Rodriguez does not testify in his own defense, he must be guilty of the charged offense?

V. Law Enforcement Background

1. Is there anyone on the panel who has previous employment experience or training with a law enforcement agency?
2. Is there anyone on the panel who has a close family member who served as a law enforcement officer?
3. Is there anyone on the panel who is more likely to believe the testimony of a law enforcement officer rather than the testimony of any other witness?

VI. Concluding Questions

1. After hearing a little bit about this case and after having some

time to think about the charges, is there anyone here who feels that he or she would not be comfortable sitting on the jury?

2. If you were sitting in Mr. Rodriguez's seat and were accused of a crime, would feel having comfortable having someone like you sit on the jury?

In the alternative, counsel for Mr. Rodriguez respectfully submits leave of this Honorable Court to pose these and other questions directly to the prospective jury panel.

Respectfully submitted,

By: Submitted Electronically 6/29/15
Brian A. Pori
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Counsel for Ernesto Rodriguez

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2015, I filed the foregoing Defendant's Requested Voir Dire electronically through the CM/ECF system, which caused a copy of the pleading to be served electronically on opposing counsel of record addressed as follows:

Maria Armijo, Esq.
Randy Castellano, Esq.
Assistant United States Attorney
P.O. Box 607
Albuquerque, New Mexico 87103

/s/ filed electronically 6/29/15
Brian A. Pori